

NIXON & VANDERHYE PC Fax: 703-816-4100

Mar 14 2007 15:29

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ATTORNEYS AT LAW11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203-1808
UNITED STATES OF AMERICATELEPHONE: (703) 816-4000
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E-MAIL: WFG@NIXONVAN.COM

March 14, 2007

VIA FACSIMILE**MAIL STOP 16**Director of the U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450Subject: **REQUEST FOR REFUND TO DEPOSIT ACCOUNT**Deposit Account No. 14-1140
Statement Date: March 8, 2007
Date Posted: February 15, 2007
SEQ No.: 2; 3
Fee Code: 1253; 1814
USPTO Ref.: 10/759,177
Our Ref.: WFG-4380-151

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated March 8, 2007, (copy attached), we believe there is a fee related error therein, which has resulted in an overcharge to our Deposit Account. Please refer to the following explanation and issue a refund as soon as possible.

The Amendment filed January 25, 2007, (copy attached) included an authorization to charge the Small Entity Extension of Time fee and Terminal Disclaimer Fee to our Deposit Account No. 14-1140. The Three-Month Extension of Time and Terminal Disclaimer fees were charged to our Deposit Account for the above-referenced application, however, the fee was incorrectly entered as "Large Entity" and charges of \$1,020.00 (Fee Code: 1253) and \$130.00 (Fee Code 1814) were assessed. The correct charges to the Deposit Account should have been \$510.00 (Fee Code: 2253; Three-Month Extension of Time fee for "Small Entity") and \$65.00 (Fee Code: 2814, Statutory Disclaimer Fee for "Small Entity"). A prompt refund is respectfully requested in the amount of \$575.00; please use reference no. WFG-4380-151.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.

By

Willem F. Gadiano

WFG:ewm
Enclosures

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Deposit Account Statement

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Page 3 of 5

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** Transmit Conf. Report **

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ATTORNEYS AT LAW11TH FLOOR
901 NORTH GLASS ROAD
ARLINGTON, VIRGINIA 22203-1808TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITING DIRECT DIAL NUMBER:
(703) 816-4057**FACSIMILE COVER SHEET**
PLEASE DELIVER IMMEDIATELY!!!

Our Ref.: 4380 151

Your Ref.: 10/759,177

Date:

January 26, 2007

To: Commissioner for Patents c/o Examiner Herbert J. LILLING

Firm: United States Patent and Trademark Office

Facsimile No.: 571-273-8300

From: William F. Gadiano

Number of Pages (including cover sheet): 8

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ATTACHMENT/S: |

1. AMENDMENT (including a request for extension of time) responsive to the Office Action dated July 25, 2006 (4 pages)
2. TERMINAL DISCLAIMER (2 pages)

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Nixon & Vanderhye PC.

ATTORNEYS AT LAW

11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203-1808

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4057

FACSIMILE COVER SHEET
PLEASE DELIVER IMMEDIATELY!!!!

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Our Ref.: 4380-151

Your Ref.: 10/759,177

Date: January 25, 2007

To: Commissioner for Patents c/o Examiner Herbert J. LILLING

Firm: United States Patent and Trademark Office

Facsimile No.: 571-273-8300

From: Willem F. Gadlano

Number of Pages (including cover sheet): 8

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Date:

By:

William F. Gadano, Reg. No. 37,138

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Steven M. Bessette et al.

Atty. Ref.: 4380-151; Confirmation No. 6664

Appl. No. 10/759,177

TC/A.U. 1651

Filed: January 20, 2004

Examiner: LILLING, Herbert J.

COPYFor: **CANCER TREATMENT COMPOSITIONS AND METHOD USING NATURAL PLANT
ESSENTIAL OILS**

* * * * *

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

This paper is being filed in response to an Office Action dated July 25, 2006. Please grant a **three-month extension of time** for entry of this communication. Please charge the small entity extension of time fee to Deposit Account No. 14-1140; please use Reference No. WFG-4380-151.

Amendments to the Claims are reflected in the listing of claims which begins on page 2.

Remarks/Arguments begin on page 4.

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 Steven M. Bessette et al.
 Appl. No. 10/759,177

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Atty. Pocket No. WFG-4380-151

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AMENDMENTS TO THE CLAIMS:

MAR 14 2007

This listing of claims will replace all prior versions, and listings, of claims in the application:

1-24. (Canceled)

COPY

25. (Currently Amended) A method for inhibiting the growth of breast cancer cells, the method comprising a step of applying a therapeutically effective amount of a plant essential oil compound to ~~the~~ a population of breast cancer cells ~~population~~ for a sufficient time to observe inhibition of growth in said breast cancer cells.

26. (Previously Presented) The method of claim 25, wherein the breast cancer cells are MCF-7 cells.

27. (Previously Presented) The method of claim 25, wherein the plant essential oil compound is selected from the group consisting of aldehyde C16 (pure), amyl cinnamic aldehyde, amyl salicylate, anisic aldehyde, benzyl alcohol, benzyl acetate, cinnamaldehyde, cinnamic alcohol, α -terpineol, carvacrol, carveol, citral, citronellal, citronellol, p-cymene, diethyl phthalate, dimethyl salicylate, dipropylene glycol, eucalyptol (cineole), eugenol, iso-eugenol, galaxolide, geraniol, guaiacol, ionone, d-limonene, menthol, methyl anthranilate, methyl ionone, methyl salicylate, α -phellandrene, pennyroyal oil, perillaldehyde, 1- or 2-phenyl ethyl alcohol, 1- or 2-phenyl ethyl propionate, piperonal, piperonyl acetate, piperonyl alcohol, D-pulegone, terpinen-4-ol, terpinyl acetate, 4-tert butylcyclohexyl acetate, thyme oil, thymol, metabolites of trans-anethole, vanillin, and ethyl vanillin.

28. (Previously Presented) The method of claim 25, wherein the plant essential oil compound is eugenol.

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Steven M. Besette et al.

Atty Docket No. WFG-4380-151

Appl. No. 10/759,177

29. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is thymol.

30. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is isoeugenol.

31. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is benzyl alcohol.

32. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is carvacrol.

33. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is cinnamic alcohol.

34. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is cinnamic aldehyde.

35. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is citronellal.

36. (WITHDRAWN) The method of claim 25, wherein the plant essential oil compound is trans-anethole

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COPYREMARKS/ARGUMENTS

Claims 25-36 are pending. Claims 1-25 were previously canceled without prejudice or disclaimer of the subject matter they contain. In an effort to advance prosecution, claim 1 is amended to encompass potentially infringing subject matter. No new matter has been added. By the amendments, Applicant does not acquiesce to the propriety of any of the Examiner's rejections and does not disclaim any subject matter to which Applicant is entitled. *Cf. Warner Jenkinson Co. v. Hilton-Davis Chem. Co.*, 41 U.S.P.Q.2d 1865 (U.S. 1997). Further, Applicant reserves the right to file continuing applications to cover disclosed subject matter not encompassed by the currently pending claims.

DOUBLE PATENTING

The Office Action rejects claims 25-29 under 35 U.S.C. § 101 as allegedly claiming the same or obvious invention as that of claims 1-3 of U.S. Patent No. 6,812,258. Although Applicants respectfully disagree, solely in an effort to advance prosecution, concurrently filed herewith is a terminal disclaimer submitted that is believed to render this rejection moot.

Reconsideration and withdrawal of this rejection are respectfully requested.

Applicants respectfully request rejoinder of the non-elected species.

CONCLUSION

If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), then please contact the undersigned attorney at the telephone number listed below.

Applicants hereby request any extension of time deemed necessary for entry of this submission (including attachments thereto) and any submission filed hereafter in this application or any continuing application(s). Applicants make a Conditional Petition for any relief available

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Steven M. Bessette et al.
Appl. No. 10/759,177

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Atty Pocket No. WFG-4380-151

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to correct any defect in connection with this filing, or any defect remaining in this application after this filing. The Commissioner is authorized to charge any petition fee or any deficiency in fees filed, or asserted to be filed, or which should have been filed herewith (or with any paper filed hereafter) to Deposit Account No. 14-1140 or credit any overpayment of fees to such Deposit Account; please use Reference No. WFG-4380-151.

Respectfully submitted,

NIXON & VANDERHYE P.C.

Date: January 25, 2007By: [Signature]Willeh F. Gadiano
Reg. No. 37,136

WFG:ewm
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

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Date: January 25, 2007By: [Signature]
Willeh F. Gadiano, Reg. No. 37,136

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Steven M. Bessette et al.

Serial No. 10/759,177

Atty. Ref.: WFG-4380-151

TC/A.U.: 1651

Confirmation No. 6664

Filed: January 20, 2004

Examiner: LILLING, Herbert J.

For: **CANCER TREATMENT COMPOSITIONS AND METHOD USING
NATURAL PLANT ESSENTIAL OILS**

* * * * *

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Your petitioner, EcoSmart Technologies, Inc., a corporation having an office and place of business at 318 Seaboard Lane, Suite 208, Franklin, Tennessee 37067, represents that it is the assignee as recorded in an assignment at Reel 010646/Frame 0006, of all right, title and interest in and to the above-captioned patent application.

Your petitioner hereby disclaims the terminal part of any patent granted on the above-captioned patent application, which would extend beyond the expiration date of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent No. 6,812,258 and hereby agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to such patent granted on the above-captioned application shall be the same as the legal title to U.S. Patent No. 6,812,258, this

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02 FC:2014 65.00 DA

Adjustment Date: 03/30/2007 SDIRETA1
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